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C O N F I D E N T I A L SECTION 01 OF 03 PANAMA 000778

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SUBJECT: PANAMA ATTORNEY GENERAL TESTS TORRIJOS
ADMINISTRATION, REOPENS CEMIS AND SUPREME COURT BRIBERY
CASES

REF: PANAMA 629

Classified By: Ambassador Linda E. Watt for Reasons 1.4 (b) & (d)

SUMMARY

1. (C) Panama's independent Attorney General Ana Matilde Gomez may have put the government of Martin Torrijos in an uncomfortable position in March when she asked the Supreme Court to reopen two three-year-old bribery investigations into a government contract for Centro Multimodal, Industrial y de Servicios (CEMIS), along with the January 9, 2002 legislative confirmation of two Supreme Court judges. Both investigations date from the Moscoso administration. Many observers believe that the CEMIS bribery scandal -- allegedly more than \$1m in cash changed hands -- may implicate many sitting and former legislators (including GOP Ministers Balbina Herrera and Hector Aleman), as well as President Martin Torrijos and former President Mireya Moscoso. How the GOP handles the two investigations could become a litmus test for the current government's dedication to improving transparency and combating corruption. Torrijos has not commented publicly on the two cases. By popular calculation the cases heavily involve PRD members, which highlights the Attorney General's intention to act unhindered by the government. Thus far, we have not seen compelling evidence that would implicate him in the CEMIS scandal. End Summary.

TV Drama and a Little Piece of Paper

2. (SBU) The CEMIS case is not the biggest corruption scandal in Panamanian history, but it probably is the one that evoked the most public revulsion. CEMIS is identified with Democratic Revolutionary Party (PRD) Legislator Carlos Afu and his fifteen minutes of fame. On January 16, 2002 Afu appeared on TV waving a large wad of cash, which he claimed was a \$6,000 down payment on a \$20,000 bribe to vote for CEMIS. Afu was trying to make the point that a large number of PRD legislators had received CEMIS bribes. Afu's extraordinary public revelation and the lack of any arrests following it brought public confidence in government officials to new lows.

3. (SBU) Afu's dramatic TV escapade came after the Assembly had been roiled by contentious and controversial Supreme Court confirmation votes for Moscoso nominees Alberto Cigarruista and Winston Spadafora, in which Moscoso allegedly bribed several PRD legislators (Afu included) in the PRD-controlled Assembly to ensure their confirmations. On January 14, 2002, the day before the Assembly voted to approve CEMIS, then-opposition PRD legislator Balbina Herrera publicly denounced Afu for taking a bribe to vote for Cigarruista and Spadafora. In retaliation, Afu went on TV on January 15 to wave the cash and claim that he was not the only PRD legislator whose vote had been bought.

4. (SBU) (Note: The genesis of the Supreme Court case is that at the end of 2001 Arnulfistas needed PRD votes for Spadafora and Cigarruista in the PRD-controlled Assembly. Spadafora reportedly had been involved romantically with President Moscoso. Cigarruista and Spadafora were confirmed with the support of three PRD votes, Afu's included. Later, the PRD expelled Afu, who won re-election in May 2004 to the National Assembly as an Arnulfista. During the campaign Afu and then-President Moscoso posed on the dance floor for press cameras. Complicating the CEMIS case is the legislative immunity Panamanian legislators then enjoyed, which later constitutional changes removed. End note.)

5. (SBU) The CEMIS bribes allegedly came from the privately owned San Lorenzo Consortium. Public Ministry investigators later came across a piece of paper in San Lorenzo's files with nothing more than names and amounts scribbled on it. "Martin," "La Dona," and "Aleman" (possibly Martin Torrijos, Mireya Moscoso or Balbina Herrera, and Hector Aleman) were to receive \$150,000 each. The rest were to receive smaller amounts. That piece of paper is the only concrete evidence turned up by CEMIS investigators directly indicating who was paid off, and it is unclear at best.

16. (U) Following the Public Ministry investigation, in September 2003, the Supreme Court voted 6-3 to close and nullify the Public Ministry's investigation. CEMIS construction never got under way. In her March 3 petition to the Court, AG Gomez requested that the Court hold separate investigations of the CEMIS and Supreme Court cases which her predecessor, Jose Antonio Sossa, had ordered joined.

Why CEMIS?

17. (SBU) On November 15, 2004 Article 155 of Panama's constitution was amended to permit the Supreme Court to investigate legislators while they remain active in the National Assembly. The demise of legislative immunity became the legal rallying ground for public officials and civil society organizations demanding that AG Gomez formally request the re-opening of the cases.

18. (C) Two heavy hitters in the private sector-- the powerful Motta family and Hutchinson Whampoa/Panama Ports -- are pushing to re-open CEMIS but for different reasons, according to Embassy sources. The Motta family, holders of one of the largest investment enterprises in the Colon Free Zone (CFZ), want the case settled so they can buy part or all of CEMIS from San Lorenzo and get the project restarted. The Mottas, along with their U.S. partners in the Manzanillo International Terminal port facility, are already constructing a new "logistics park" on land adjacent to San Lorenzo's property. Panama Ports Company (PPC) wants CEMIS separated from the case against Spadafora and Cigarruista as political payback against Justice Spadafora, who according to Palace insiders wrote an opinion declaring PPC's multi-decade, multi-billion-dollar tax exoneration unconstitutional. (Note: PPC administers the Cristobal and Balboa ports. The Moscoso administration, specifically former Minister of Commerce Joaquin Jacome, granted PPC an exoneration from paying \$30 million a year in taxes for the next 45 years. Current Minister of Commerce Alejandro Ferrer asked the Supreme Court to strike down the exoneration upon entering office. A decision is pending. Rumors abound of huge PPC bribes paid to Moscoso officials and to Hugo Torrijos, the president's cousin. Hugo Torrijos, known popularly as "Mr. Ten Percent," has been implicated in at least two major bribery scandals relating to abuse of his former position as Director of the Maritime Authority of Panama (AMP). End Note.)

Torrijos Is Silent on CEMIS

19. (C) Well-placed PRD sources informed Embassy personnel that President Torrijos had allegedly asked his private attorneys for advice on how to keep CEMIS closed. Senior Solidarity party legislator Leopoldo Benedetti, who said he "knows for a fact" that Torrijos accepted a large CEMIS bribe while he was head of the PRD, told PolOffs recently that he believes that the president would block any actual investigation into CEMIS. On the other hand, Panamanian Bar Association president Carlos Vasquez told PolOff that no clear evidence exists to implicate any senior GOP officials. Vasquez added that the government's handling of CEMIS would be a defining moment for its leadership.

Comment:

Politik-ing the Court

10. (C) No one in Panama is clear on where CEMIS will wind up or even why the GOP asked the Court to rule on the case when it seems incapable of rendering impartial justice. The pending Supreme Court decision on whether to re-open the investigations into CEMIS and the buying of votes for magistrates of the Court comes in the midst of public demands for the dismissal of all nine justices. (See Reftel.) The reemergence of the two corruption scandals has only sharpened the overlapping and conflicting personal interests of the parties involved, which presumably include present and former GOP officials and the justices themselves.

Diminishing Support for the AG?

11. (C) Torrijos's apolitical appointment of Gomez, who serves for a ten-year term and who is independent of the administration, undoubtedly is a key decision which he may come to regret. Her active pursuit of Moscoso-era corruption and illicit enrichment cases such as PECC, Panama Ports, DuroDolares, and Fundacion Mar Del Sur comes on the heels of a predecessor, Antonio Sossa, who took virtually no action against corruption for ten years. Gomez has had the support of the president, as well as that of Minister of the Presidency Ulbaldino Real, and Comptroller General Dani Kuzniecky. (Note: Kuzniecky, Gomez and Torrijos all attended the same private grade school. End Note.) Though she continues to act independently, Gomez's initial hesitation to request the re-opening of CEMIS at first created a public perception that she was either inexperienced or subject to

GOP pressure. After she willingly reversed her decision, she regained public support for her actions. It is too early in her term to determine how Gomez will respond to GOP pressure, or how doggedly she will pursue cases that may be inimical to the GOP's interests. We suspect that the president's support for Gomez is now more tenuous than before the re-opening of CEMIS.

WATT